

IN THE HIGH COURT OF BOMBAY AT GOA

PIL WRIT PETITION NO. 94 OF 2005

Jose Carlos Da Viegas
Gracias, Margao Goa.

... Petitioner

versus

1. State of Goa, through
the Chief Secretary,
Secretariat, at Porvorim,
Goa.

2. Member Secretary,
Margao Planning &
Development Authority,
at Osia Commercial
Complex, Margao.

3. The Chief Officer,
Margao Municipal Council,
Margao-Goa.

... Respondents

Petitioner present in person.

Mr. C. A. Ferreira, Amicus Curiae.

Ms. W. Coutinho, Government Advocate for the Respondent
No.1.

Mr. M. Pereira, Advocate for the Respondent No.2.

Mr. S. D. Padiyar, Advocate for the Respondent No.3.

**CORAM : SMT.RANJANA DESAI &
N. A. BRITTO, JJ.**

DATE : 20TH JUNE, 2006.

ORAL JUDGMENT(PER SMT.RANJANA DESAI, J.)

We have heard the learned Counsel for the parties.

The petitioner is present in person.

2. Letter dated 11-2-2004 addressed by the petitioner to the Principal Judge of Bombay High Court, Panaji Bench, Goa was treated as Public Interest Litigation. In this letter, there are two basic grievances. The first grievance is about non provision of statutory off-street parking as directed in the Planning and Development Authority Regulations by the promoters of commercial complexes in and around the city center of Margao. The second grievance is about the conversion of parking spaces into shops. For convenience the Planning and Development Authority shall be referred to as PDA.

3. On 17-10-2005, this Court had issued certain directions to the PDA and Margao Municipal Council(MMC, for short). The said directions are as under:-

(i) The Chief Officer, Margao Municipal Council is directed to cause the site inspection of the projects(buildings) listed at serial nos.1, 2, 3, 4, 5, 6, 7, 9, 11 and 14 in the list('X') done within four weeks from today to find out whether there is breach of parking regulations and the extent thereof.

(ii) The inspection of the aforesaid 10 projects(buildings) shall be done after giving due notice to the petitioner as well as the Margao Planning and Development Authority and, of course, the concerned builders/developers/Societies/occupants, as the case may be.

(iii) The Chief Officer, Margao Municipal Council shall file his own affidavit setting out the remedial action in restoration of parking spaces in accordance with parking Regulations and the time-frame within which the said action would be completed.

(iv) The Affidavit shall be filed by the Chief Officer, Margao Municipal Council along with the site inspection report within two weeks of the compilation of the site inspection.

4. On 6-2-2006, this Court directed the PDA and MMC to file further affidavits. On 15-2-2006, the respondents were directed to file compliance report.

5. Accordingly, affidavits have been filed by PDA and MMC indicating the steps taken by them to secure compliance of this Court's Order. Compliance reports have also been filed by PDA and MMC. The affidavits filed by the authorities and their compliance report indicate that the authorities have in fact taken steps to redress the grievance of the petitioner. The learned Counsel for the parties, therefore, agree that this petition may be disposed of on the basis of the said affidavits and the said reports.

6. It appears that along with his letter dated 11-2-2004 the petitioner had supplied a list containing the names of several commercial complexes which according to him had violated the regulations pertaining to parking spaces. Subsequently, it was realized that out of them a number of commercial complexes were governed by the Planning and Development Authority Regulations prior to 1989. The learned Counsel for the parties

agree that in the circumstances those commercial complexes have to be left out of the scope of this petition. The commercial complexes which are guilty of violations are at serial nos.(1) C.D. Blue Chip, (2) Casa Blanca, (3) Rangavi Realtors, (5) Teo Ann Coelho Towers, (6) Vasant Arcade, (7) Castello Plaza, (9) Kurtarkar Commerce Centre, (11) Apna Bazar, (14) Aliados Building.

7. So far as C.D. Blue Chip is concerned, it appears that show cause notice was issued by MMC to C.D. Blue Chip. Show Cause notice dated 17-5-2006 came to be issued by PDA to C.D. Blue Chip. Thereafter C.D. Blue Chip submitted revised plans and those revised plans have been approved by PDA.

8. As regards Casa Blanca commercial complex, it appears that show cause notice was issued by MMC to Casa Blanca. However, as the premises were locked show cause notice could not be served. Hence, MMC proposes to issue fresh show cause notice. The show cause notice issued by the PDA on 17-5-2006 has returned "unclaimed" on 30-5-2006. PDA also proposes to issue fresh show cause notice. The affidavits indicate

that both PDA and MMC propose to take action. PDA and MMC should take action expeditiously.

9. So far as Rangavi Realtors are concerned, show cause notice has been issued by MMC. However, the builder has not filed any reply. It appears that concerned occupants have filed their replies. The occupant of "Madam's Choice" has sought time to dismantle the board which has since been removed and occupant of "D ziner's" has replied to the show cause notice. MMC has ordered removal of illegal board. The "D ziner's" have approached Civil Court and the Civil Court has stayed the said order. Considering the nature of the grievance made by the petitioner, in the circumstances of the case, we direct the Civil Court to dispose of the proceedings pending before it as expeditiously as possible. So far as PDA is concerned, show cause notice issued to Rangavi Realtors has been returned with a remark "addressee is not residing at the given address". PDA has stated that they are making fresh efforts to serve the notice. Both, PDA and MMC have stated that they will take necessary action against this commercial complex. We expect them to do so at the earliest.

10. Show Cause notice has been issued to Teo Ann Coelho Towers by MMC but Teo Ann Coelho Towers has not responded to that notice. Thereafter MMC has issued a demolition order. PDA has also issued show cause notice to this commercial complex. That notice was duly served. This commercial complex has not shown cause. PDA has stated that resolution has been passed to issue notice for demolition and then to carry out demolition of the portion which is violating regulations. It appears against the demolition order passed by MMC, Teo Ann Coelho Towers have filed appeal before the Municipal Appellate Tribunal on which stay Order has been passed on 21-3-2006. We direct the Municipal Appellate Tribunal to dispose of this appeal at the earliest.

11. Vasant Arcade has taken necessary steps and the grievance of the petitioner is redressed. Hence it is not necessary to deal with the petitioner's grievance about this commercial complex.

12. The learned Counsel for PDA states that as regards

Castello Plaza inadvertently a discrepancy has crept in the affidavit of the PDA and annexures thereto. He states that in fact Castello Plaza has submitted revised plans rectifying violations and revised plans have been approved by PDA on 7-6-2006.

13. Show Cause notice has been issued to Kurtarkar Commerce Centre. It has been duly served. PDA has said that a resolution has been passed to issue notice for demolition to this centre and then to carry out the demolition of the portion of the construction violating regulations. We hope and trust that PDA will take necessary action at the earliest.

14. So far as Aliados building is concerned, show cause notice has been issued to the original applicant Shri John D'Cruz but the same has been returned unserved. PDA is taking steps to serve Shri John D'Cruz afresh. We expect early action as regards this complex from PDA.

15. We are satisfied after perusing the affidavits filed by PDA and MMC and their compliance report that both these authorities have taken necessary steps to ensure that erring

commercial complexes abide by the rules and regulations. We notice from the affidavit filed on behalf of PDA that so far as show cause notices which they have not been able to serve are concerned they intend to re-issue them after obtaining fresh addresses. According to PDA , PDA needs six to eight weeks to take further steps to obtain necessary resolution and thereafter issue notices for demolition according to law. PDA has further stated that PDA requires three months time to complete the entire process. So far as Teo Ann Coelho Towers and Kurtarkar Commerce Centre are concerned, PDA has said that notice of demolition will be issued by 16-6-2006 and thereafter necessary action will be taken as per law and for this PDA requires six weeks time.

16. We feel that the request for extension of time made in paragraphs 7 and 8 of the affidavit dated 15-6-2006 of Member Secretary of PDA is reasonable. In our opinion, in the circumstances of the case, it is necessary to give three months time to PDA and MMC to take remaining necessary steps and follow up action so as to redress the petitioner's grievance. We hope and trust that PDA and MMC will abide by the statements

made by them in their respective affidavits and act promptly within the above time frame. That will give much needed relief to the citizens who are irked by the rampant violations of relevant regulations regarding parking spaces by promoters of commercial complexes in and around the city of Margao. We direct PDA and MMC to submit compliance reports to this Court after three months. We appreciate the efforts made by the petitioner to bring before this Court the problems faced by citizens on account of violations of regulations pertaining to parking spaces.

17. The petition is disposed of in the aforestated terms.

SMT. RANJANA DESAI, J.

N. A. BRITTO, J.

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